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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,852	01/15/2002	Hiroshi Matoba	15210	5935
23389 7590 03/09/2009 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER				
TEKLE, DANIEL T				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
03/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/046,852

**Applicant(s)**

MATOBA ET AL.

**Examiner**

DANIEL TEKLE

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 22-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 22-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 26, 2008 has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-9 and 22-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-5, 7-8, 22-27, 29-30 and 38 are rejected under 35 U.S.C 102(e) as being anticipated by Knudson et al. (US 2005/0273819)

**Regarding Claim 1:** Knudson et al. discloses, a method of selecting a program which meets a user's taste from broadcast programs and recording the selected program in

automatic broadcast recording apparatus in a system having a server and the automatic broadcast recording apparatus, comprising the steps of: at a server **(paragraph 0048)**: disclosing timer recording pattern information for recording broadcast programs **(Abstract)** recommended by at least one opinion leader **(paragraph 0048)**; at each of automatic broadcast recording apparatus: acquiring timer recording pattern information of the one of the opinion leader selected by user **(Abstract)**; setting timer recording for one of the broadcast program by using timer recording pattern information **(Abstract)**; and receiving the program set for timer recording and recording the received program **(Abstract)**.

**Regarding Claim 2-3:** Knudson et al. discloses broadcast programs include video data and audio data **(Abstract)**.

**Regarding Claim 4:** Knudson et al. discloses, a method according to claim 1, further comprising the step of: acquiring program information including identification codes of the broadcast programs and broadcasting dates and times thereof at each of automatic broadcast recording apparatus **(Abstract)**; wherein timer recording pattern information includes identification codes of the programs recommended by the opinion leader selected by the user **(Abstract and paragraph 0087)**; and wherein step of setting timer recording includes the step of selecting the program from program information **(Abstract)**.

**Regarding Claim 5:** Knudson et al. discloses, a method according to claim 1, wherein timer recording pattern information includes start-of-program times and end-of-program

times of the programs recommended by the opinion leader selected by the user **(paragraph 0087 and fig. 10a)**; and wherein the step of setting timer recording includes the step of selecting the program from the start-of-program time and end-of-program time thereof **(Abstract and Fig. 10)**.

**Regarding Claim 6:** Knudson et al. discloses the method of claim 1, further comprising the step of: at each of automatic broadcast recording apparatus: recording a playback history including information of whether the recorded program is played back or not **(paragraph 0087)**; and selecting an opinion leader who meets the user's taste based on playback history **(paragraph 0087)**.

**Regarding Claim 7:** Knudson et al. discloses the method of claim 1, further comprising the steps of: recording a timer recording history including information Of programs set for timer recording **(Abstract and paragraph 0087)**; and selecting an opinion leader who meets the user's taste based on timer recording history **(paragraph 0087)**.

**Regarding Claim 8:** Knudson et al. discloses a method of claim 1, further comprising the steps of: at each of automatic broadcast recording apparatus: recording a recording history including information of recorded programs **(Abstract and paragraph 0006)**; and selecting an opinion leader who meets the user's taste based on recording history **(paragraph 0087)**.

**Regarding Claim 9:** Knudson et al. discloses a method of selecting a program which meets a user's taste from broadcast programs and recording the selected program in an automatic broadcast recording apparatus in a system having a server and the automatic

broadcast recording apparatus, comprising the steps of: at server (paragraph 0087): disclosing timer recording pattern information for recording broadcast programs recommended by at least one opinion leader (paragraph 0087); at each of automatic broadcast recording apparatus: acquiring timer recording pattern information of one of the opinion leaders selected by user (paragraph 0087); setting timer recording for one of the broadcast programs using said timer recording pattern information (Abstract); receiving the program set for timer recording and recording the received program acquiring program information including identification codes of the broadcast programs and broadcasting dates and times thereof (paragraph 0087); and confirming the broadcasting date and time of a program to be recorded from program information when the program information is acquired, and correcting the broadcasting date and time if the broadcasting date and time have been changed (paragraph 0087), wherein said timer recording pattern information includes the identification codes of the programs recommended by the opinion leader selected by the user and said step of setting timer recording includes the step of selecting the program from program information (paragraph 0087).

**Regarding Claim 22:** Knudson et al. discloses a method of selecting a program which meets a user's taste from broadcast programs and recording the selected program in automatic broadcast recording apparatus in a system having a server and the automatic broadcast recording apparatus, comprising the steps of: at server (paragraph 0087): disclosing timer recording pattern information for recording programs selected according to respective predetermined selecting standards from the broadcast programs

(**paragraph 0070**); at each of automatic broadcast recording apparatus: acquiring timer recording pattern information selected by user (**paragraph 0070**); setting timer recording for a program determined by timer recording pattern information (**Fig. 10**); and receiving the program set for timer recording and recording the received program (**paragraph 0084**).

**Regarding claims 23-30:** Claims 23-30 are rejected for the same subject matter as claims 1-8 respectively as discussed above.

**Regarding Claim 31:** Knudson et al. discloses an apparatus according to claim 26, wherein timer recording means confirms the broadcasting date and time of a program to be recorded from program information when the program information is acquired by information acquiring means, and corrects the broadcasting date and time if the broadcasting date and time has been changed (**paragraph 0087**).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/  
Supervisory Patent Examiner, Art Unit 2621

/Daniel Tekle/  
Examiner, Art Unit 2621